



OPPOSITION TO

WESTLAWN SURGERY CENTER, LLC

Project No. CN1911-046

TriStar StoneCrest Medical Center
Physician Pavilion Surgery Center
StoneCrest Surgery Center

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HSDA Criteria for ASTCs not met

- ASTC Criteria for “Full Capacity” = 1,263 cases per OR (and 2,667 per PR).
 - STH/USPI uses “Optimal Capacity” of 70% at 884
 - That is the benchmark under the ASTC Criteria for considering a CON, not “Full Capacity”
- Proper *Service Area* is Rutherford County
 - *62% of volume projected to come from Rutherford County – clearly a majority of the cases*
 - Utilization Rate for Proper Service Area does not reach the 70% threshold
 - **67.8% ORs** use rate in Rutherford County in 2019 (using “corrected” data)
- Including New Salem and Stonecrest Surgery Centers (CONs approved in 2017)
 - 52.7% for ORs use rate (based on 2019 “corrected” data)
- Despite “rapid population growth,” ASTC OR use is trending downward (**-11.5%** over last 3 years)
- STH/USPI have another ASTC – New Salem – that could accommodate any alleged need to decompress
- **Westlawn is not needed**

Applicant's Errant Approach

- **To achieve the 70% threshold required for “need,” STH/USPI:**
 1. Defined the proposed service area too broadly;
 - Used Rutherford County as “Primary Service Area” (from whence over **62%** of Westlawn patients will come) and
 - Added a “Secondary Service Area” of four counties with **single-digit** patient origins
 2. Excluded consideration of ASTCs that this Agency has approved, but are not yet implemented (New Salem & StoneCrest SC); and
 3. Provided 11th-hour “corrections” to previously-reported JAR data.
- Even after all 3 of these machinations, STH/USPI's projected utilization barely crosses the minimum utilization threshold by only
 - .08% or
 - just 10 cases per OR.
- **PLUS: this project does not contribute to orderly development and will harm existing facilities AND can be accomplished much less expensively**

The CON Should Be Denied

1. No Need

- Even with Westlawn's recently "corrected" 2019 JAR information, a new ASTC is not needed
- Existing capacity at all ASTCs belies the need for any new ASTC
 - 2 additional ASTCs approved, but not operating yet – will dilute need even further

2. Not Orderly Development

- Harm to existing facilities
 - ✓ Middle Tennessee Surgery Center (MTASC)
 - ✓ New Salem Surgery Center (approved, not implemented)
 - ✓ Physician's Pavilion Surgery Center
 - ✓ Stonecrest Medical Center
 - ✓ Stonecrest Surgery Center (approved, not implemented)

3. Not Economically Feasible

- Less costly and more effective alternatives are available, but not considered

I. No Need

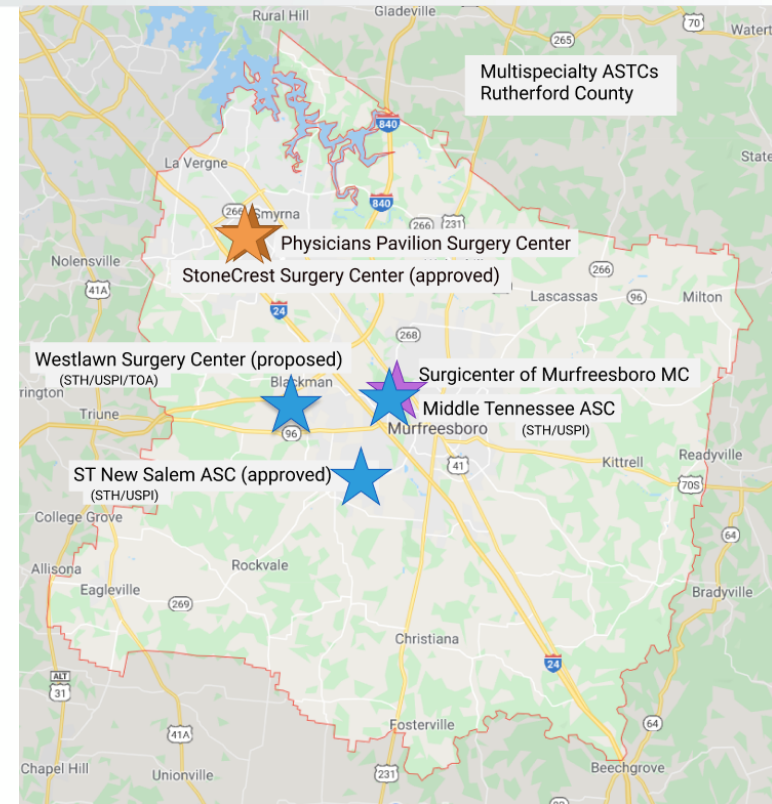
Service Area is Rutherford County

Actual Service Area is Rutherford County

- CON Application states that 62% of cases come from Rutherford County (p. 21)
 - Matches 2018 and 2019 JARs for MTASC
 - 62% patients from Rutherford County
 - ASTC Criteria – service area is where “a majority of its service recipients reside”
- STH/USPI already have 2 ASTCs in Rutherford County:
 1. MTASC (6 OR / 1 PR)
 2. New Salem ASC (2 OR / 1 PR)
 - Add Westlawn (3 OR / 1 PR)

= 11 ORs & 3 PRs

ALL ASTCs in service area have available capacity.



I. No Need

Current ASTCs have Considerable Capacity

2019 Multi-Specialty ASTC Utilization in Actual Service Area

ASTC	County	#ORs/PRs	OR Cases	#Cases per OR	PR Cases	# Cases per PR	% of OR Capacity Utilized 1,263	% of PR Capacity Utilized 2,667
Surgicenter of Murfreesboro Medical Center	Rutherford	4/3	4,607	1,152	6,774	2,258	91.2%	84.7%
Physicians Pavilion Surgery Center	Rutherford	4/1	1,332	333	763	763	26.4%	28.6%
Middle Tennessee Ambulatory Surgery Center (MTASC)	Rutherford	6/1	6,046	1,008	1,614	1,614	79.8%	60.5%
Total		14/5	11,985	856.1	9,151	1,830.2	67.8%	68.6%
Saint Thomas New Salem ASC (Approved)	Rutherford	2/1	-	-	-	-	0.0%	0.0%
TriStar StoneCrest ASC (Approved)	Rutherford	2/1	-	-	-	-	0.0%	0.0%
Total		18/7	11,985	665.8	9,151	1307.3	52.7%	49.0%

Source: 2019 JARs; CON applications CN1707-022 and CN1707-023; Supplemental Data provided by Applicant 6/15/20

I. No Need

Current ASTCs have Considerable Capacity

2019 Multi-Specialty ASTC Utilization in Claimed Service Area

ASTC	County	#ORs/PRs	OR Cases	#Cases per OR	PR Cases	# Cases per PR	% of OR Capacity Utilized	% of PR Capacity Utilized
							1,263	2,667
Center for Day Surgery	Coffee	1/0	809	809	-	-	64.1%	-
Tullahoma Surgery Center	Coffee	2/1	2,407	763	2,660	2,660	60.4%	99.7%
Surgicenter of Murfreesboro Medical Center	Rutherford	4/3	4,607	1,152	6,774	2,258	91.2%	84.7%
Physicians Pavilion Surgery Center	Rutherford	4/1	1,332	333	763	763	26.4%	28.6%
Middle Tennessee Ambulatory Surgery Center (MTASC)	Rutherford	6/1	6,046	1,008	1,614	1,614	79.8%	60.5%
Total		17/6	15,201	894.2	11,811	1,968.5	70.8%	73.8%
Saint Thomas New Salem ASC (Approved)	Rutherford	2/1	-	-	-	-	0.0%	0.0%
TriStar StoneCrest ASC (Approved)	Rutherford	2/1	-	-	-	-	0.0%	0.0%
Total		21/8	15,201	723.9	11,811	1,476.4	57.3%	55.4%

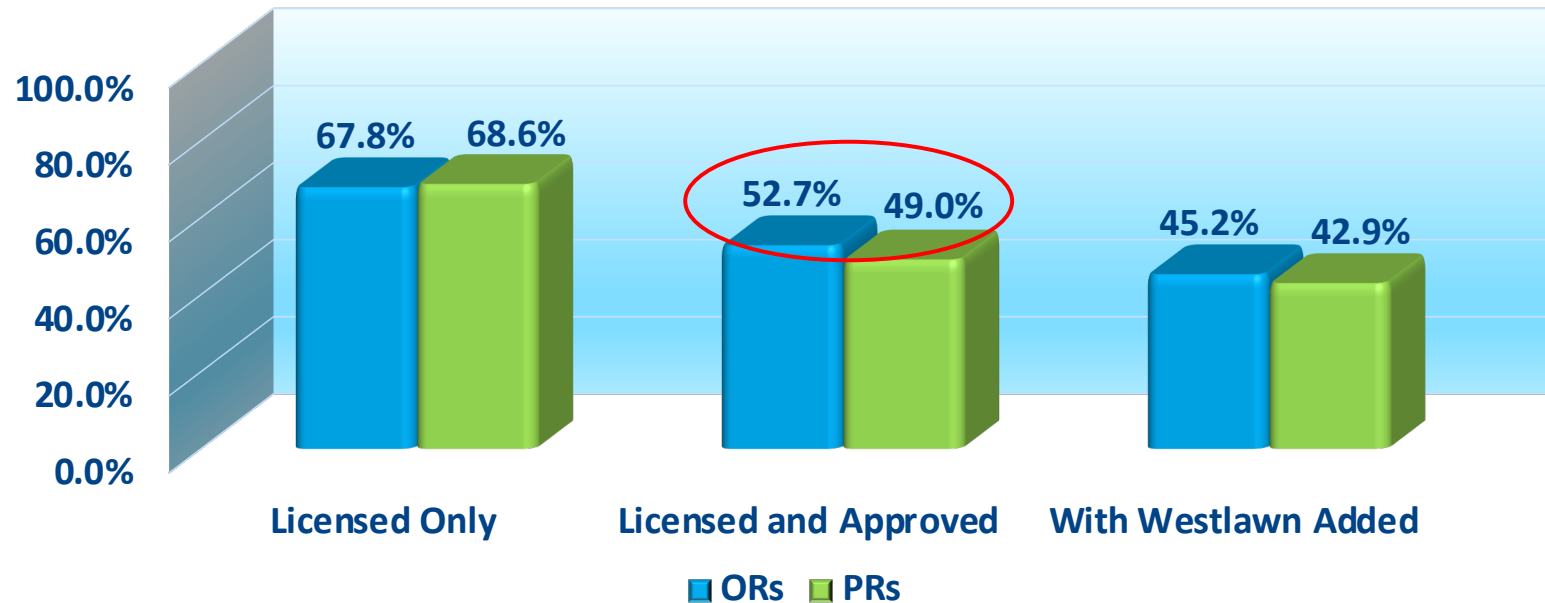
Source: 2019 JARs; CON applications CN1707-022 and CN1707-023; Supplemental Data provided by Applicant 6/15/20

I. No Need

ASTC Capacity if Westlawn Approved

Impact of Approved ASTCs on Surgical Utilization in **Actual Service Area**

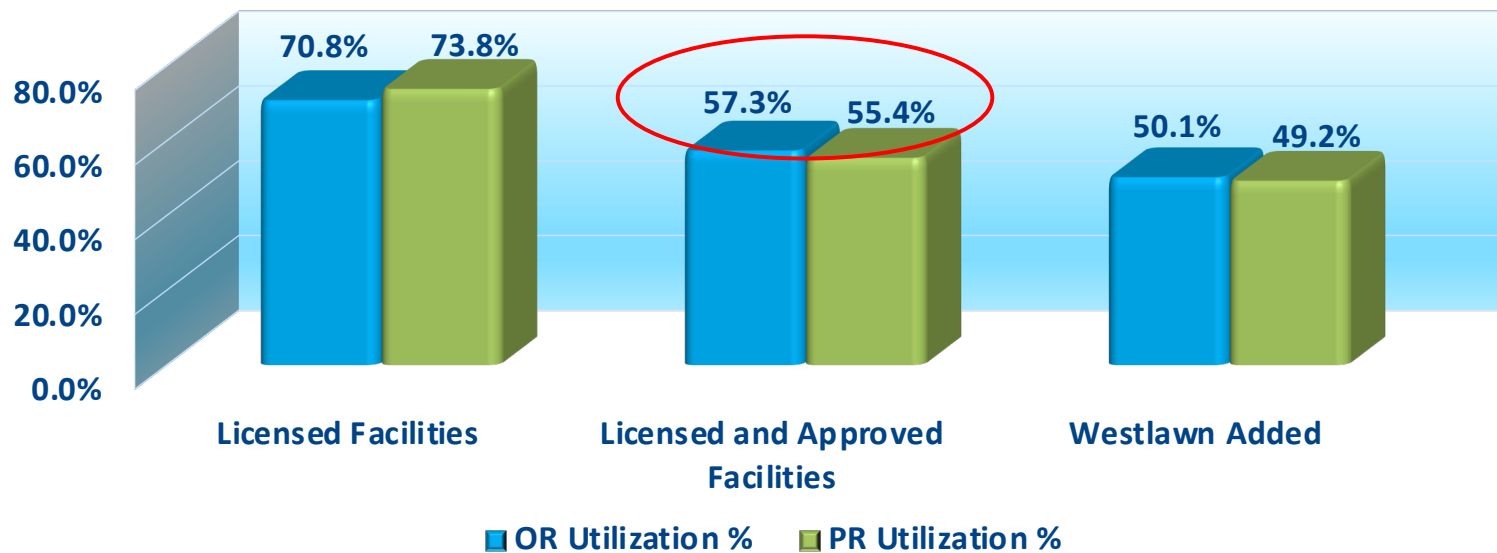
(Based on 2019 Volumes)



I. No Need

ASTC Capacity if Westlawn Approved

Impact of Approved ASTCs on Surgical Utilization
In **Claimed Service Area**
(Based on 2019 Volumes)



Source: 2019 JARs; CON applications CN1707-022 and CN1707-023; Supplemental Data provided by Applicant
6/15/20

I. No Need

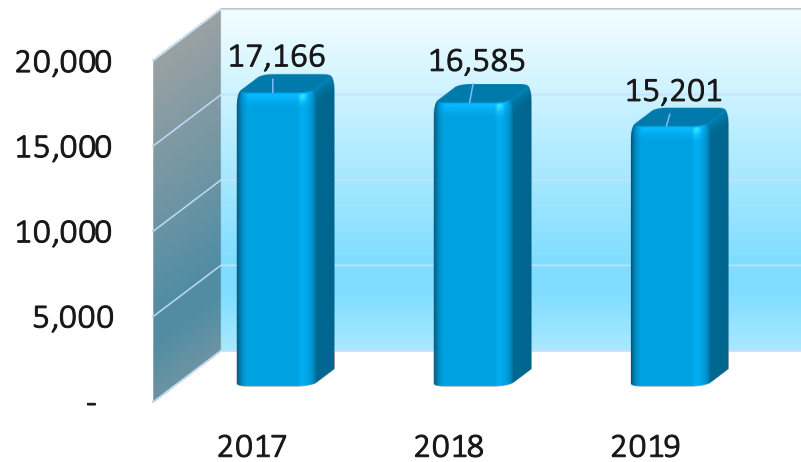
Population Growth Does Not Justify New ASTC

Rapid Population Growth – does not translate into greater ASTC usage

- OR cases steadily down

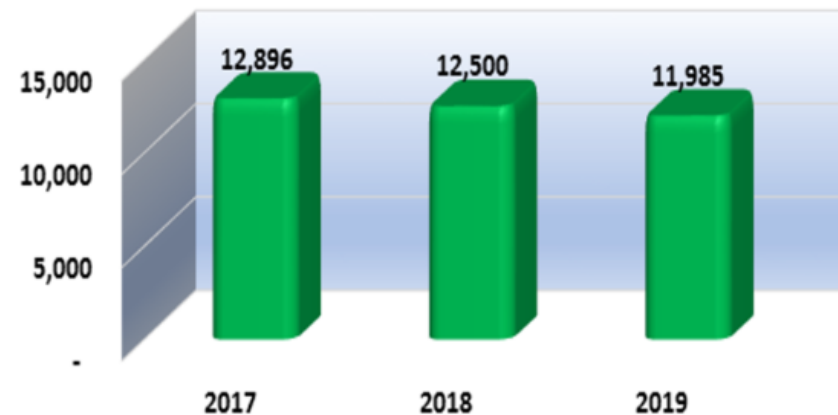
Claimed Service Area OR Cases

Down 11.5%



Actual Service Area OR Cases

Down 7%



Source: 2017-2019 JARs; Supplemental Data provided by Applicant 6/15/20

I. No Need

New Salem: STH/USPI multi-specialty ASTC

- New Salem CON approved in 2017:
 - 336 ortho cases projected - Year 1
 - 24.4% - total New Salem OR volume
 - Add 126 Pain Mgt & Spine
 - 33.6% of total New Salem OR volume

New Salem projections in **New Salem** application

Specialty	Year 1 OR Cases	Year 1 PR Cases	Year 2 OR Cases	Year 2 PR Cases
Urology	451		628	
Orthopedics	336		469	
ENT	239		333	
Ophthalmology	134		187	
General Surgery	90		125	
Pain Management	63		88	
Spine	63		87	
GI		506		706
Pain Management		64		89
Total	1,375	570	1,917	795
Grand Total	1,945		2,712	

Source: CN1707-022, Page 29

- Westlawn CON Application:
 - Now STH/USPI say ZERO ortho
 - Now STH/USPI say ZERO pain mgt. & spine

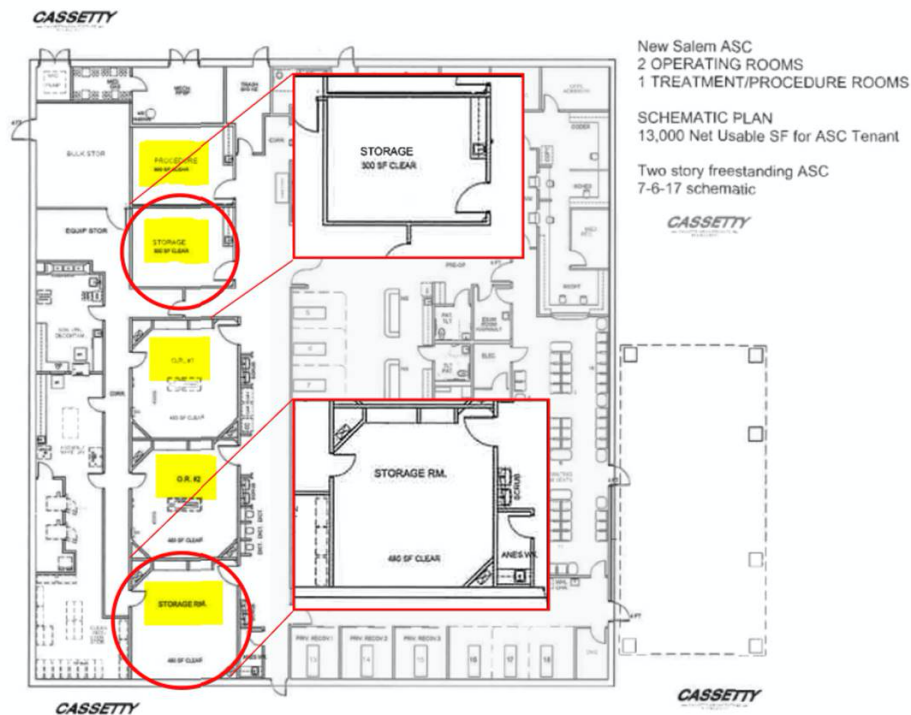
New Salem Projections in **Westlawn** application

Specialty	Year 1 # of Surgeons	Year 1 OR Cases	Year 1 PR Cases	Year 2 OR Cases	Year 2 PR Cases
ENT	3	474		939	
General Surgery	6	355		703	
GI	4		1,039		2,059
Lithotripsy	5		151		293
Urology (Non-Litho)	5	226		447	
Sub-total		1,055	1,190	2,089	2,352
Grand Total		2,245		4,441	

Source: USPI Internal Data, revised 2019

STH/USPI/TOA can use New Salem as currently designed

STH/USPI/TOA can use New Salem as currently designed



New Salem ASC
2 OPERATING ROOMS
1 TREATMENT/PROCEDURE ROOMS

SCHEMATIC PLAN
13,000 Net Usable SF for ASC Tenant

Two story freestanding ASC
7-6-17 schematic

CASSETTY

CASSETTY

79

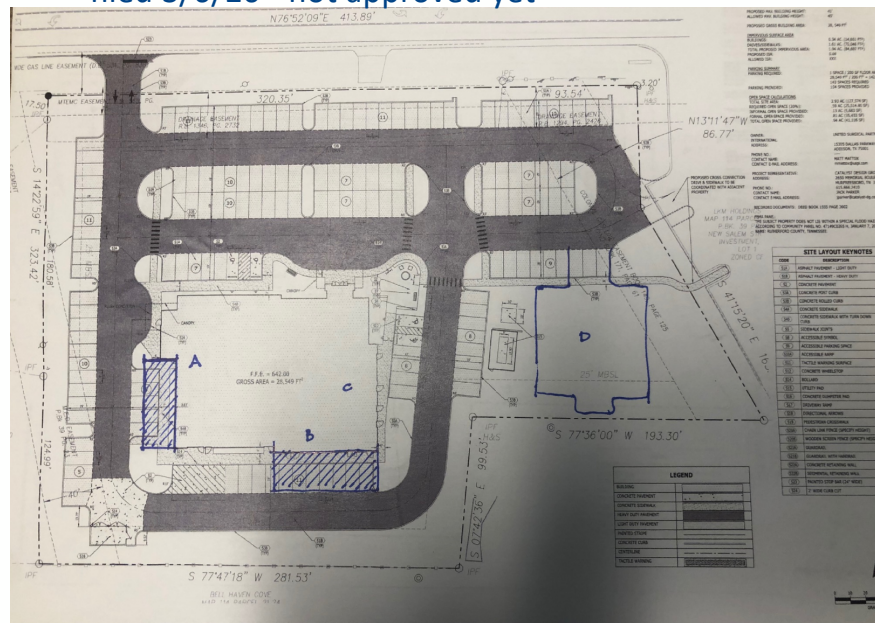
- Current New Salem design provides for
 - ✓ 1 more OR
 - ✓ 1 more PR
- In addition, there is room on site for 2 additional ORs

New Salem CON App. at p. 79

I. No Need New Salem can be expanded.

New Salem ASTC

- can be expanded for **2 More ORs** in addition to existing 1 shelled OR
- Not under construction; Building Permit application filed 3/6/20 - not approved yet



Conceptual Budget	
Total Duration in Months:	11
Allocated Space	
New Hospital (expansion on unconstructed new hospital)	4,300
Total Allocated Space	4,300
Budget Categories	
Design, Construction, Sitework, Testing, A&E Fees and Building	\$ 2,450,500
Legal, Admin, Consultant Fees	\$ 80,000
Site Development, Parking and underground detention	\$ 854,500
Testing (Threshold Inspections)	\$ 10,000
Construction	\$ 1,128,000
Contingency	\$ 199,000
Arch. & Eng. Fees	\$ 139,000
Building Fees	\$ 40,000
Equipment	\$ 1,746,000
I/S	\$ 194,000
Unified Communications	\$ 43,000
Subtotal	\$ 4,433,500
Interest	\$ 112,000
Total	\$ 4,545,500

Vast cost savings over current project

- Much less expensive than \$13.9 million for whole new building

II. Not Orderly Development

MTASC and New Salem Will be Harmed by Westlawn

- Most of MTASC's orthopedic cases will be redirected to Westlawn.
 - “Upon facility opening, TOA physicians will redirect TOA patients from MTASC to Westlawn.”
 - Westlawn CON p. 7
- In 2019, MTASC
 - OR cases **declined** between 2018 and 2019 by **6.5%**
- Remove 2,218 OR cases & 600 PR cases from MTASC for Westlawn
 - Westlawn CON p. 5
- MTASC's OR utilization declines to **50.5%** and PR utilization to **38%**.
- New Salem:
 - Westlawn will remove **33.6%** of total projected volume from New Salem (approved, not implemented)

II. Not Orderly Development

Westlawn Will Harm Existing Facilities

- TriStar StoneCrest Medical Center
 - Outpatient Surgery
 - Physicians Pavilion Surgery Center
 - Sold by STH/USPI to HCA in 2018
 - Stonecrest Surgery Center
 - CON approved in 2017
- TOA
 - OP orthopedic and pain management cases from StoneCrest MC and Physicians Pavilion to Westlawn
 - Physicians Pavilion SC already under-utilized
 - Stonecrest SC (approved, not implemented)
 - projected to perform orthopedic cases - development will be limited if Westlawn approved.

II. Not Orderly Development

Westlawn Will Harm Existing Facilities

Applicant's Projected Payor Mix, Year 1
Project Only Chart

Payor Source	Projected Gross Operating Revenue	As a % of total
Medicare/Medicare Managed Care	\$2,609,017	18.4%
TennCare/Medicaid	1,219,432	8.6%
Commercial/Other Managed Care	9,783,812	69.0%
Self-Pay	439,563	3.1%
Other (Specify) <u>Champus, WorkComp</u>	127,615	0.9%
Total*	14,179,439	100.0%
Charity Care	\$28,302	

*Needs to match Gross Operating Revenue Year One on Projected Data Chart

Almost 70% commercial insurance cases

- extremely high
- most highly-compensated TOA cases will be moved
- 37% of StoneCrest Medcial Center's outpatient Ortho cases commercial ins.

Westlawn designed to serve the higher compensated cases

- **Not Medicare or TennCare**

II. Not Orderly Development

Westlawn Will Harm StoneCrest Medical Center

- **Specialty Outpatient Surgery at TriStar StoneCrest Medical Center**
 - Orthopedics - largest outpatient specialty at StoneCrest MC in 2019 –
 - 28% of total outpatient volume.
 - TOA represents 47% of the orthopedic outpatient volume at StoneCrest MC.
 - 386 cases in 2019
 - StoneCrest MC
 - significant investment in Specialty Outpatient Surgery
 - a dedicated unit and the purchase of a \$1.4 million Mako Robotic Joint Replacement Unit.



II. Not Orderly Development

Westlawn Will Harm Physicians Pavilion Surgery Center

- Physicians Pavilion – very under utilized
 - In 2019 – ORs – 26.4% capacity
 - PRs 28.9% capacity
- TOA = all PR use at Physicians Pavilion
 - 12% of OR use
- USPI/STH sold Physicians Pavilion to TriStar in November 2018.



- Why sell an ASTC with available capacity in 2018?
- Then file a CON application in 2019 for Westlawn?

III. Not Economically Feasible

Alternatives Available & Not Considered

Less costly and more effective alternatives are available.

➤ New Salem

- TOA can use the already-approved STH/USPI New Salem ASTC.
 - Easily increase New Salem from 2 to 3 ORs within current floorplan
 - Further expansion available - STH/USPI have not yet begun construction
 - Building permit not issued - Can change plans
 - Cost \$4.5 million compared to \$13.9 million
- If prefer to use the New Salem CON for TOA, ask for that instead of new CON

➤ MTASC

- Downward trend will be exacerbated when TOA redirects over 2,800 cases to Westlawn.

➤ Physicians Pavilion has capacity.

- Existing facilities should be adequately used before building more

DENY CON

Not Consistent with State Health Plan Criteria

“A CON application to establish an ASTC . . . should not be approved unless the existing ambulatory surgical services that provide comparable services . . . are demonstrated to be currently utilized at 70% or above.”

- **Actual Service Area use rate: 67.8% OR / 68.6% PR, without New Salem and StoneCrest SC**
 - **Neither exceed the minimum threshold, even before considering the 2 additional approved ASTCs**
 - **Claimed Service Area: OR use rate is *barely above* threshold (due to last minute “corrections”) - 70.8% (10 cases over) if you ignore the 2 additional approved ASTCs**
 - Actual SA including New Salem & StoneCrest SC - use rate is 52.7% OR / 49% PR
 - Claimed SA including New Salem & StoneCrest SC - use rate is 57.3% OR / 55.4% PR
 - If approve Westlawn, use rate in actual Service Area = 45.2% ORs / 42.9% PR
- Use rate **not increasing** at existing ASTCs despite population growth
- **Other ASTCs – even STH/USPIs own ASTCs -- will be harmed**

No Need – Not Consistent with ASTC Criteria

- ✓ New Salem available for modification at much lower cost